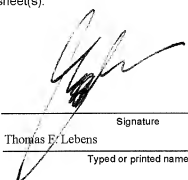


Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 71709 7114	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 09/745,606	Filed December 20, 2000
		First Named Inventor Nuko S. Nishikawa	
		Art Unit 2623	Examiner Annan Q. Shang
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Thomas F. Lebens	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number 38221		(805) 781-2865	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		July 16, 2007	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.:	09/745,606
Applicants:	Yuko S. Nishikawa et al.
Filed:	December 20, 2000
Title:	SYSTEM AND METHOD FOR PROVIDING CHANNEL SECTION IN AN ELECTRONIC PROGRAMMING GUIDE
Examiner:	SHANG, Annan Q.
Art Unit:	2623
Confirm. No.:	1200
Customer No.:	22242

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop: AF
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Office Action mailed April 16, 2007 please enter the following brief in support of the attached Pre-Appeal Request for Review. A Notice of Appeal is also submitted herewith.

Claims 1-11 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,141,003 to Chor et al. (hereinafter referred to as the Chor patent).

I. Clear Error: No *prima facie* case of obviousness has been established because the evidence relied on by the examiner in taking official notice does not teach what is suggested.

Claims 1 and 11: The examiner in rejecting independent claims 1 and 11 suggests that having a remove icon in place of an add icon is common knowledge and in support the examiner relies on U.S. Patent No. 6,336,053 to Beatty (see for example the office action, pg. 2).

The Beatty patent, however, does not teach a remove icon in place of an add icon. The office action cites Figure 11 and col. 27, lines 15-30 of the Beatty patent in attempts to show “a remove icon in place of [an] add icon” (Office Action, pg. 2). However, Beatty and the cited portion of Beatty does not describe or suggest replacing an add icon with a delete icon. Instead, the Beatty reference only describes multiple distinct displayed screens where one of the screens, the “machine login screen” of Figure 14, has both an “ADD button” 1022 and a “Delete button” (see Beatty, FIG. 14, and col. 27, lns. 5-30), and a distinct and different screen, the “containers screen” of Figure 11, has an “ADD button” 1022 and a “RETIRE button” 1028. The portion of Beatty cited by the office action, i.e., col. 27, lns. 21-24, in attempts to support the assertion of describing a remove icon in place of an add icon describes the “machine login screen” of Figure 14, while Figure 11 also referenced by the office action is a distinct and different screen of a “containers screen 1000.” There is no relationship with respect to the buttons or content available through these the “machine login screen” and the “container screen” and Beatty does not teach or suggest replacing the “Delete” button of the “container screen” with a “Retire” button, or replacing the “Retire” button of the “machine login screen” with a “Delete” button. Instead, Beatty at col. 27, lines 21-24 references Figure 11 in describing the screen of Figure 14 only for the sake of simplifying the description of the screen of Figure 14. As such, the Beatty reference does not describe at least “a remove icon in place of an add icon” as claimed, and therefore, does not provide evidence in support of the suggestion that having a remove icon in place of the add icon is common knowledge.

Therefore, Applicants respectfully submit that it is not common knowledge to replace an add icon with a delete icon as recited in the claims, and it would not be obvious to replace an add icon with a delete icon as recited. Thus, a *prima facie* case has not been established.

II. Clear Error: No prima facie case of obviousness has been established even if Chor and Beatty are properly combined because not all limitations are met.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art (see MPEP 2143.03). The MPEP further states “Distilling an invention down to the ‘gist’ or ‘thrust’ of an invention disregards the requirement of analyzing the subject matter ‘as a whole’” (MPEP 2141.02). The pending rejections fail to demonstrate where the cited combination of references teaches all of the limitations, even if, *arguendo*, the proposed combination of art is proper. Thus, Applicants respectfully submit that there is a clear error in the rejection as a *prima facie* case of obviousness has not been established.

Claims 1 and 11: Both the Beatty and the Chor patents fail to teach or suggest “displaying a remove icon in place of the add icon where the remove icon is selectable to remove the channel associated with the show currently being displayed from said memory when the current channel is stored in said memory” as recited for example, in claim 1. The office action specifically admits that the Chor patent does not teach a remove icon and further does not teach “a remove icon in place of the add icon ...” (see at least Office Action, pg. 7). Further the Beatty reference does not describe or suggest “a remove icon in place of the add icon,” and further does not teach “displaying a remove icon ... when the current channel is stored in said memory” as recited for example in claim 1. As such, the combination of the references does not describe or suggest each element in at least claim 1, and therefore, a *prima facie* case of obviousness has not been established. Therefore, the finality of the office action is in error.

III. Clear Error: The Final Office Action fails to Address and Examine all of Applicants’ claims.

Claim 21: Applicants respectfully submit that the final office action fails to address and examine previously added claim 21. With regard to claim 21 the office action fails to present any grounds for rejection and further fails to mention claim 21 in the office action. MPEP §707.07(i) states that “[i]n every Office action, each pending claim should be mentioned

by number, and its treatment or status given.” The office action fails to consider claim 21, and further fails to provide any response with respect to claim 21. Therefore, Applicants respectfully submit that the finality of the office action is in error.

Moreover, applicants submit that at least claim 21 is not obvious over the Chor patent. The Chor patent fails to teach or suggest a second menu as claimed, and further fails to teach or suggest a menu with a graphical portion and instructions superimposed over the show displayed in the graphical portion. Therefore, claim 21 is also not obvious over the Chor patent.

IV. Clear Error: The Final Office Action and the Advisory Action maintain all rejections without addressing the substance of Applicants arguments at least with respect to claims 18 and 19.

The MPEP specifically states, “Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and answer the substance of it” (MPEP, §707.07(f)). The office action fails to address arguments presented in the response to the previous office action mailed October 20, 2006, at least with respect to claims 18 and 19. As such, the finality of the office action is in error, and Applicants respectfully request that the rejections with respect to claims 18 and 19 be withdrawn.

More specifically with regard to at least claim 18, Applicants respectfully submit that there is no teaching or suggestion in Chor at least to display a screen menu with a scrollable listing of channels and a graphical portion displaying shows corresponding to the channels during scrolling. Instead, Chor requires the user to click on the icon currently having focus in order to view the show corresponding to the channel stored in memory (Chor, col. 8, lines 39-67). The office action generally rejects claims 17-20; however, the portions of Chor cited in the office action do not describe a second menu having both the graphical portion and scrollable list with the graphical portion displaying a show corresponding to a channel in the list. (See also Response to Office Action Mailed October 20, 2006, pg. 11).

Moreover regarding at least claim 19, Applicants respectfully submit that Chor fails to teach or describe at least the secondary menu including a description of the show corresponding to the channel in the list of channels stored in memory as recited by claim 19. The channel bars


displaying the stored channels described by Chor are a set of linearly arranged actuatable icons associated with a particular stored channel and do not comprise a text portion providing a program description for the show corresponding to a channel stored in memory (Chor, col. 2, lines 39-41 and 48-50). (See also Response to Office Action Mailed October 20, 2006, pg. 11-12). Therefore, Chor does not teach or suggest all of the limitations of at least claims 18 and 19, and thus, claims 18 and 19 are patentable over Chor.

CONCLUSION

Applicants respectfully submit that there is at least one clear error that would overcome the rejection of at least one claim; therefore, Applicants respectfully request that the final Office Action be withdrawn.

Dated: July 16, 2007

Respectfully submitted,



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